

## Debbie Beadle

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**From:** James Osgood <jim@Officefinder.onmicrosoft.com>  
**Sent:** Thursday, December 06, 2012 4:31 PM  
**To:** Debbie Beadle  
**Cc:** Samuel Rodabough; Rick Tomkins; Kamuron Gurol; Evan Maxim  
**Subject:** Public Hearing comment on the ECA update  
**Attachments:** PC\_comment\_12.6.12.pdf

Please see my comments attached in pdf format for the Public Hearing on the ECA update.

I would appreciate it if you could confirm receipt.

Thank you,

*Jim Osgood*

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EXHIBIT NO. 274

December 6, 2012

James Osgood  
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Public comment to Planning Commission related to the Erosion Hazard Near Sensitive Water Bodies Overlay

As you all know, over the past several months we have been earnestly participating in the ECA Review process with both the Planning Commission and City Staff to come to a reasonable solution to what we believe is an unjust taking of our property rights and the rights of every property owner in the EHNSWB overlay. We have been looking to create a reasonable balance between property rights and the environmental protection of Lake Sammamish. Over the past few weeks we have been in discussion with the City Staff to try to come up with a resolution that would accommodate both. The staff offered us four alternatives for inclusion in the pilot program, all of which are infeasible. Let me tell you why:

1. Tightline runoff directly to Lake Sammamish. This is not feasible for sites that are remote from the shoreline.
2. Set aside 65% of the site as forested open space, limit impervious coverage to 10%, and limit the volume of runoff discharged from the site to that which would occur under pre-developed forested conditions - so called LID alternative. This is not feasible since nearly all developed runoff would need to be disposed of onsite, and onsite soils in the overlay have negligible infiltration capacity.
3. Limit duration of peak flow runoff to that which occurs under forested conditions for the range of flows from 8% of the 2-year storm to 50% of the 2-year - so called DOE LID Flow Control Standard. Based on preliminary analysis using KCRTS software (Ecology's own modeling software does not yet provide a tool to apply this standard), a 4-acre site, with 40% impervious coverage, would be estimated to require detention storage in excess of 9 acre-feet (1 acre - 9 feet deep). This is approximately 400% larger than would be required with a Level 3 flow control standard. This alternative is economically infeasible.
4. Limit the annual volume of runoff discharged from the developed site to that which would occur under existing conditions. This is the latest staff suggestion. Unless the existing site already included significant areas of impervious coverage, development of access roadway and frontage improvements could easily "consume" all of the runoff volume allowed under this standard, leaving each residential lot needing to dispose of all its runoff onsite - via the ground (infiltration), or the sewer (harvesting and flushing), and/or hold for use as irrigation in the Summer. Infiltration is not possible, and one can't feasibly collect and recycle water that is not roof runoff. Even if one could, the size of individual storage tanks on each lot could easily exceed 100,000 gallons<sup>1</sup>. Even if roadway improvements were held out of the calculation

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<sup>1</sup> A volume-based standard alone is not likely to provide adequate protection for the downstream unless it also regulates how that volume is released; if all of the allowed volume were held and then released in one or even multiple discharge events, the rates and duration of discharge could easily exceed that which could cause downstream erosion or flooding problems

- i.e. did not count against the allowable volume – our particular 4-acre property may be able to accommodate only 3-4 lots using aggressive rainwater harvesting; however this would not address potential impacts resulting from the uncontrolled road improvement runoff (typically mitigated by detention).

As noted, none of these alternatives would allow a reasonably feasible development on a 4-acre site zoned R4 such as our property. Each would allow only between 3 and 4 sites to be developed and could not absorb the cost of the infrastructure.

Our negotiations with the City Staff have been in good faith. We were told that we needed to exceed Flow 3 controls and assure the ditch was protected from erosion or damage. We put this in our proposal. We continued to add LID techniques to our proposal that City Staff told us would get us closer to their support. We believed we were getting close to an agreement, but abruptly received a “best” and final offer of #4 above. This process has required a great expenditure of time and thousands of dollars in consulting and attorney fees. I am concerned that the City engaged us in all of these meetings to give the appearance to the Commission that they were working for a solution for my property. Unfortunately, none of City Staff’s proposed “solutions” were remotely feasible. Nor did they let us know their bottom line until last Wednesday. The cost of developing will increase significantly if those LID techniques are required. They have an extreme environmental protection leaning and lack of concern over property rights. This has been evidenced not only in our issue, but others as well.

We had thought that we had boiled down the main issue to water volumes and how to convey water safely to Lake Sammamish without causing erosion or damage to the ditch. We believe that that is the only issue at hand. The only difference between the Carson/Probst Proposal and ours is intended to be the manner of conveyance to Lake Sammamish. Our proposal assures the integrity of the ditch by requiring an extensive analysis of it by two qualified engineers to assure that there are no issues or to identify what needs to be done to assure the integrity of the ditch.

Please keep in mind that this is for a very limited pilot program. In actuality, many of the LID techniques we have included should not even be required; their results need to be analyzed in order to decide on any limitations. My engineers have told me that, in all likelihood, no additional limitations would be required. The techniques and peer review would assure the integrity of the ditch.

A few other comments that I hope you keep in mind

- ✓ The stormwater manual has been updated significantly since 1997, when King County implemented the overlay. The current requirement to match discharge and durations to forested conditions (as opposed to existing conditions) greatly reduces the rate at which water is coming off a property. This is a significant improvement over what was in place in 1997. This is not just a retry of previously allowed process, but a new one with much adjusted flow controls.
- ✓ We are not proposing development or stormwater conveyance on steep slopes. As an example, the area of our property we plan to develop has an average slope of less than 15% as is the

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slope of the ditch to the stormwater pipe at the bottom our hill. The definition of an Erosion Hazard Area is that it is applied only to slopes of 15% or greater. In other words our property and the conveyance do not qualify as an Erosion Hazard Area.

- ✓ While increased Phosphorus levels are a concern, the current EPA Assessment identifies that Lake Sammamish meets water quality standards for phosphorus, the lake is at risk for several other water quality parameters. Currently, Lake Sammamish is on Ecology's 303(d) list, as a Category 5 water body for ammonia N, dissolved oxygen, and fecal coliform10. The DOE letter, exhibit 229, of October 17th does not comment on or dispute this.
- ✓ Earth moving will only occur during the dry months, further reducing erosion risk in development.
- ✓ The ditch is an approved stormwater conveyance outside the overlay, subject to verification of its integrity.

Finally, I know you feel the pressure to provide alternatives to those of us who cannot tightline in the EHNSWB overlay. I truly appreciate it. We have come up with a proposal to do so within the pilot program that will provide a balanced opportunity to develop. Only allowing the big developers the alternative to reasonably develop their property would be a shocking result of all of these months of study. I am sure that not only the City Council would be shocked, but the Citizens of our city, as well.

Thank you for all of your hard work and consideration.

Respectfully,



James Osgood